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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/539,541	11/14/2005	Peter Bauer	2002P01555WOUS	8001

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EXAMINER

WILKENS, JANET MARIE

ART UNIT	PAPER NUMBER
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3637

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09/05/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/539,541	Applicant(s) BAUER ET AL.	
	Examiner Janet M. Wilkens	Art Unit 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 16 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-29 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16 and 18 is/are allowed.
- 6) ☒ Claim(s) 10-15, 17, 19, 28 and 29 is/are rejected.
- 7) ☒ Claim(s) 20-27 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 16, 2008 has been entered.

Specification

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: namely, nowhere is the cap portion and its positioning with respect to the other features of the compartment discussed in the specification.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 10-15 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 10 is rejected as being incomplete for omitting essential elements, such omission amounting to a gap between the elements.

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See MPEP § 2172.01. The omitted elements are: the feature which forms the closed position with the door.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10 and 17 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Teller et al (1,961,022) in view of McClure (2,596,706). Teller teaches a door (Fig. 2) comprising: an outer wall (15) and an inner wall (12) connected together along longitudinal edges; a first closure element (11) fastened to a transverse edge of the outer wall and a transverse edge of the inner wall, the first closure element together with the outer wall and the inner wall delimits an insulating intermediate space (with 15); and the inner wall is constructed to be shorter in the longitudinal direction than the outer wall, the first closure element bridges the

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difference in length between the inner wall and the outer wall, such that when the door is in a closed position, the first closure element is capable of/ configured for covering at least one of a control or an indicting panel and a condition-indicating panel operatively associated with a refrigerating appliance. First, it should be noted that the refrigerator body is not being claimed in combination with the door; therefore, the door of Teller only has to be capable of covering a control or indicting panel and it is contended that the solid door of Teller would inherently be capable of meeting this limitation. However, since the cabinet of Teller fails to show this type of panel on its body, the reference of McClure is being applied to provide a refrigerator embodiment (10) with this type of body/panel arrangement (14,15) at the front upper portion thereof, the arrangement being covered by the door of the refrigerator. Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to have a control or indicating panel in the upper front wall of the refrigerator body of Teller, such as the control panel taught by and in McClure, to provide a readily accessible control panel on the refrigerator. . Note: when the door of Teller in view of McClure is in a closed position, the first closure element would inherently help cover the control or an indicting panel .

Claim 19 is rejected under 35 U.S.C. 103(a) as obvious over Teller et al (1,961,022) in view of McClure (2,596,706). Teller teaches a door (Fig. 2) on a refrigerator (1), the door comprising: an outer wall (15) and an inner wall (12) connected together along longitudinal edges; a first closure element (11) fastened to a transverse edge of the outer wall and a transverse edge of the inner wall, the first closure element

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together with the outer wall and the inner wall delimits an insulating intermediate space (with 15); and the inner wall is constructed to be shorter in the longitudinal direction than the outer wall, the first closure element bridges the difference in length between the inner wall and the outer wall. Teller fails to show an indicator or control panel on its refrigerator body. McClure teaches a refrigerator (10) with a control panel arrangement (14,15) at the front upper portion of its body, the arrangement being covered by the door of the refrigerator when the door is closed. It would have been obvious to one having ordinary skill in the art at the time of the invention to have a control or indicating panel in the upper front wall of the refrigerator body of Teller, such as the control panel taught by and in McClure, to provide a readily accessible control panel on the refrigerator. Note: when the door of Teller in view of McClure is in a closed position, the first closure element would inherently help cover the control or an indicting panel .

Claims 28 and 29 are rejected under 35 U.S.C. 103(a) as obvious over McClure (2,596,706). McClure teaches a cooling compartment (10) including a back wall, an access opening, and a side wall, the side wall having an inner surface, an outer surface, and a cap portion (17), the cap portion extending between and being connected to each of the inner and outer surfaces of the side wall (see Fig. 3), the cap portion forming a termination of the side wall as viewed in a depth direction from back wall toward the access opening, the inner surface, the outer surface, and the cap portion together delimiting a volume there between in which insulating material (12) is disposed, and the side wall being located at a side of the cooling compartment as viewed in a lateral direction perpendicular to the depth direction from back wall toward the access opening,

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and a door (30) being movable between open and shut positions for respectively permitting access via, and closing off, the access opening of the cooling compartment. For claim 28, McClure fails to teach an indicia bearing portion being located outwardly of the cap portion of the side wall of the cooling compartment as viewed in the depth direction from back wall toward the access opening, the indicia bearing portion displaying thereon an indicia. The examiner takes Official notice that adhesive backed stickers with indicia thereon are well known in the art. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the refrigerator of McClure by adding stickers with various types of indicia, e.g. with instructions or patterns, on the cap portion, for aesthetic purposes, for instructional purposes, etc. Note: a portion of the indicia bearing portion on which the indicia is displayed has a predetermined profile and a portion of the door that overlies the indicia on the indicia bearing portion in the closed position of the door has a corresponding profile shape.

Allowable Subject Matter

Claims 20-27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 11-15 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claims 16 and 18 are allowed.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet M. Wilkens whose telephone number is (571) 272-6869. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Janet M. Wilkens/
Primary Examiner, Art Unit 3637

Wilkens
August 31, 2008

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